

**\*\*NOT FOR PRINTED PUBLICATION\*\***

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

**JEFFREY DUNNAM**

**V.**

**RELIANCE STANDARD LIFE INS. CO. §  
AND COMMScope, INC. OF NORTH §  
CAROLINA §**

§  
§  
§  
§  
§  
§

**No. 4:15cv311-RC-CMC**

**ORDER ADOPTING REPORT AND  
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636. On August 28, 2015, the report of the Magistrate Judge was entered, containing proposed findings of fact and recommendations that Defendant's Motion to Dismiss Certain Claims and Causes of Action Asserted in Plaintiffs' First Amended Complaint ("FAC") [Doc. #15] be granted in part and denied in part.

Having received the report of the United States Magistrate Judge, and no objections thereto having been timely filed, this Court is of the opinion the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge's report as the findings and conclusions of the Court. It is therefore

**ORDERED** Defendant's Motion to Dismiss Certain Claims and Causes of Action Asserted in Plaintiffs' First Amended Complaint [Doc. #15] is **GRANTED** regarding Plaintiff's claim for "damages for breach of fiduciary duty of failing to timely and in good faith investigate the claim and

respond to the insured” in ¶ 45 of the FAC and Plaintiff’s claim for a “penalty” based on alleged failure to “follow the rules” under 29 C.F.R. § 2560.503(1)(f). Defendant’s motion is otherwise **DENIED.**

So **ORDERED** and **SIGNED** this **8** day of **February, 2016.**

A handwritten signature in black ink, appearing to read "Ron Clark", written in a cursive style.

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Ron Clark, United States District Judge